

AMENDED IN SENATE JUNE 9, 2010

AMENDED IN SENATE JULY 2, 2009

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY MARCH 16, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 440

Introduced by Assembly Member Beall

(Principal coauthor: Senator Padilla)

**(Coauthors: Assembly Members Block, Chesbro, Coto, De Leon,
Eng, Fong, Swanson, and Torrico)**

February 24, 2009

~~An act to add Article 3 (commencing with Section 66745) to Chapter 9.2 of Part 40 of Division 5 of Title 3 of the Education Code, relating to community colleges. An act to amend Section 25503.6 of the Business and Professions Code, relating to alcoholic beverages.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 440, as amended, Beall. ~~California Community Colleges: student transfer. Alcoholic beverages: tied-house restrictions: advertising.~~

Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a winegrower's license, a beer manufacturer, a distilled spirits manufacturer, or a distilled spirits manufacturer's agent, to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the

on-sale retail licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of specified facilities.

This bill would expand the exceptions to existing law to allow beer manufacturers, winegrowers, distilled spirits rectifiers, distilled spirits manufacturers, or distilled spirits manufacturer's agents to purchase advertising space and time from, or on behalf of, on-sale retail licensees at specified facilities located in the City of San Jose.

This bill would also require on-sale licensees that enter into advertising agreements under this exception to obtain an annual certificate from the Department of Alcoholic Beverage Control, specified information about which will be included by the department in its annual report to the Legislature.

The Alcoholic Beverage Control Act provides that a violation of any of its provisions for which another penalty or punishment is not specifically provided is a misdemeanor. This bill would expand existing crimes by imposing additional requirements on a licensee under the act, thus, the bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of San Jose.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law establishes the 3 segments of public postsecondary education in this state. These segments include the California State University, the campuses of which are administered by the Trustees of the California State University, the University of California, which is administered by the Regents of the University of California, and the California Community Colleges, which are administered by the Board of Governors of the California Community Colleges.~~

~~Existing law establishes community college districts throughout the state, and authorizes them to provide instruction to students at community college campuses.~~

~~Existing law, known as the Donahoe Higher Education Act, authorizes the community colleges to grant associate in arts and associate in science degrees. The act also requires the regents, the trustees, and the board of governors to have as a fundamental policy the maintenance of a~~

healthy and expanded program to increase the number of transfer students from community colleges.

~~This bill would enact the Associate Degree and Recognition of Student Transfer Preparation Act, which would authorize a community college to grant an associate degree in the student's field of study, that is designated as being "for transfer," to a student who completes 60 transferable semester units or 27 quarter units, as specified, and meets the minimum requirements for transfer to a public university or alternative path to transfer program. The bill would prohibit a community college district from imposing any requirements, in addition to these requirements, for the granting of an associate degree with the "for transfer" designation.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25503.6 of the Business and Professions
2 Code is amended to read:

3 25503.6. (a) Notwithstanding any other provision of this
4 chapter, a beer manufacturer, the holder of a winegrower's license,
5 a distilled spirits rectifier, a distilled spirits manufacturer, or
6 distilled spirits manufacturer's agent may purchase advertising
7 space and time from, or on behalf of, an on-sale retail licensee
8 subject to all of the following conditions:

9 (1) The on-sale licensee is the owner, manager, agent of the
10 owner, assignee of the owner's advertising rights, or the major
11 tenant of the owner of any of the following:

12 (A) An outdoor stadium or a fully enclosed arena with a fixed
13 seating capacity in excess of 10,000 seats located in Sacramento
14 County or Alameda County.

15 (B) A fully enclosed arena with a fixed seating capacity in
16 excess of 18,000 seats located in Orange County or Los Angeles
17 County.

18 (C) An outdoor stadium or fully enclosed arena with a fixed
19 seating capacity in excess of 8,500 seats located in Kern County.

20 (D) An exposition park of not less than 50 acres that includes
21 an outdoor stadium with a fixed seating capacity in excess of 8,000
22 seats and a fully enclosed arena with an attendance capacity in
23 excess of 4,500 people, located in San Bernardino County.

1 (E) An outdoor stadium with a fixed seating capacity in excess
2 of 10,000 seats located in Yolo County.

3 (F) An outdoor stadium and a fully enclosed arena with fixed
4 seating capacities in excess of 10,000 seats located in Fresno
5 County.

6 (G) An athletic and entertainment complex of not less than 50
7 acres that includes within its boundaries an outdoor stadium with
8 a fixed seating capacity of at least 8,000 seats and a second outdoor
9 stadium with a fixed seating capacity of at least 3,500 seats located
10 within Riverside County.

11 (H) An outdoor stadium with a fixed seating capacity in excess
12 of 1,500 seats located in Tulare County.

13 (I) A motorsports entertainment complex of not less than 50
14 acres that includes within its boundaries an outdoor speedway with
15 a fixed seating capacity of at least 50,000 seats, located within San
16 Bernardino County.

17 (J) An exposition park, owned or operated by a bona fide
18 nonprofit organization, of not less than 400 acres with facilities
19 including a grandstand with a seating capacity of at least 8,000
20 people, at least one exhibition hall greater than 100,000 square
21 feet, and at least four exhibition halls, each greater than 30,000
22 square feet, located in the City of Pomona or the City of La Verne
23 in Los Angeles County.

24 (K) An outdoor soccer stadium with a fixed seating capacity of
25 at least 25,000 seats, an outdoor tennis stadium with a fixed
26 capacity of at least 7,000 seats, an outdoor track and field facility
27 with a fixed seating capacity of at least 7,000 seats, and an indoor
28 velodrome with a fixed seating capacity of at least 2,000 seats, all
29 located within a sports and athletic complex built before January
30 1, 2005, within the City of Carson in Los Angeles County.

31 (L) An outdoor professional sports facility with a fixed seating
32 capacity of at least 4,200 seats located within San Joaquin County.

33 *(M) A convention center with more than 130,000 square feet of*
34 *exhibit space located in, and owned by, the City of San Jose.*

35 *(N) An auditorium with a fixed seating capacity in excess of*
36 *2,500 seatings located in, and owned by, the City of San Jose.*

37 (2) The outdoor stadium or fully enclosed arena described in
38 paragraph (1) is not owned by a community college district.

39 (3) The advertising space or time is purchased only in connection
40 with the events to be held on the premises of the exposition park,

1 stadium, or arena owned by the on-sale licensee. With respect to
2 an exposition park as described in subparagraph (J) of paragraph
3 (1) that includes at least one hotel, the advertising space or time
4 shall not be displayed on or in any hotel located in the exposition
5 park, or purchased in connection with the operation of any hotel
6 located in the exposition park.

7 (4) The on-sale licensee serves other brands of beer distributed
8 by a competing beer wholesaler in addition to the brand
9 manufactured or marketed by the beer manufacturer, other brands
10 of wine distributed by a competing wine wholesaler in addition to
11 the brand produced by the winegrower, and other brands of distilled
12 spirits distributed by a competing distilled spirits wholesaler in
13 addition to the brand manufactured or marketed by the distilled
14 spirits rectifier, the distilled spirits manufacturer or the distilled
15 spirits manufacturer's agent that purchased the advertising space
16 or time.

17 (b) Any purchase of advertising space or time pursuant to
18 subdivision (a) shall be conducted pursuant to a written contract
19 entered into by the beer manufacturer, the holder of the
20 winegrower's license, the distilled spirits rectifier, the distilled
21 spirits manufacturer, or the distilled spirits manufacturer's agent
22 and the on-sale licensee.

23 (c) Any beer manufacturer or holder of a winegrower's license,
24 any distilled spirits rectifier, any distilled spirits manufacturer, or
25 any distilled spirits manufacturer's agent who, through coercion
26 or other illegal means, induces, directly or indirectly, a holder of
27 a wholesaler's license to fulfill all or part of those contractual
28 obligations entered into pursuant to subdivision (a) or (b) shall be
29 guilty of a misdemeanor and shall be punished by imprisonment
30 in the county jail not exceeding six months, or by a fine in an
31 amount equal to the entire value of the advertising space, time, or
32 costs involved in the contract, whichever is greater, plus ten
33 thousand dollars (\$10,000), or by both imprisonment and fine. The
34 person shall also be subject to license revocation pursuant to
35 Section 24200.

36 (d) Any on-sale retail licensee, as described in subdivision (a),
37 who, directly or indirectly, solicits or coerces a holder of a
38 wholesaler's license to solicit a beer manufacturer, a holder of a
39 winegrower's license, a distilled spirits rectifier, a distilled spirits
40 manufacturer, or a distilled spirits manufacturer's agent to purchase

1 advertising space or time pursuant to subdivision (a) or (b) shall
2 be guilty of a misdemeanor and shall be punished by imprisonment
3 in the county jail not exceeding six months, or by a fine in an
4 amount equal to the entire value of the advertising space or time
5 involved in the contract, whichever is greater, plus ten thousand
6 dollars (\$10,000), or by both imprisonment and fine. The person
7 shall also be subject to license revocation pursuant to Section
8 24200.

9 (e) For the purposes of this section, “beer manufacturer” includes
10 any holder of a beer manufacturer’s license, any holder of an
11 out-of-state beer manufacturer’s certificate, or any holder of a beer
12 and wine importer’s general license.

13 (f) *An on-sale licensee that meets the description provided in*
14 *subdivision (a) and that enters into a written agreement pursuant*
15 *to this section shall obtain an annual certificate from the*
16 *department. The director shall prepare, as part of the annual report*
17 *required by Section 23055 for submission to the Legislature, a*
18 *listing of the number of certifications made pursuant to this section*
19 *or the absence of any certifications. Where there have been no*
20 *certifications made pursuant to this section for two consecutive*
21 *years, this information shall be included in the report.*

22 (g) *The Legislature finds that it is necessary and proper to*
23 *require a separation among manufacturing interests, wholesale*
24 *interests, and retail interests in the production and distribution of*
25 *alcoholic beverages in order to prevent suppliers from dominating*
26 *local markets through vertical integration and to prevent excessive*
27 *sales of alcoholic beverages produced by overly aggressive*
28 *marketing techniques. The Legislature further finds that the*
29 *exception established by this section to the general prohibition*
30 *against tied interests shall be limited to its express terms so as not*
31 *to undermine the general prohibition, and intends that this section*
32 *be construed accordingly.*

33 *SEC. 2. The Legislature finds and declares that a special law*
34 *is necessary and that a general law cannot be made applicable*
35 *within the meaning of Section 16 of Article IV of the California*
36 *Constitution because of the unique circumstances and concerns*
37 *applicable to certain facilities in the City of San Jose.*

38 *SEC. 3. No reimbursement is required by this act pursuant to*
39 *Section 6 of Article XIII B of the California Constitution because*
40 *the only costs that may be incurred by a local agency or school*

1 *district will be incurred because this act creates a new crime or*
2 *infraction, eliminates a crime or infraction, or changes the penalty*
3 *for a crime or infraction, within the meaning of Section 17556 of*
4 *the Government Code, or changes the definition of a crime within*
5 *the meaning of Section 6 of Article XIII B of the California*
6 *Constitution.*

7 ~~SECTION 1. The Legislature finds and declares all of the~~
8 ~~following:~~

9 ~~(a) Since the enactment of the Master Plan for Higher Education~~
10 ~~in 1960, preparing students to transfer to a four-year university~~
11 ~~has been a core function of the California Community Colleges.~~

12 ~~(b) Successful progression from lower division coursework to~~
13 ~~degree completion is a basic principle of California higher~~
14 ~~education and is critical to the future of the state's economy.~~

15 ~~(c) Currently, the coursework necessary to transfer to a campus~~
16 ~~of the California State University or the University of California~~
17 ~~differs from the coursework needed to earn an associate degree.~~
18 ~~As a result, many transfer students leave the community college~~
19 ~~system having completed transfer requirements, but are unable to~~
20 ~~participate in community college graduation ceremonies, do not~~
21 ~~have a degree to show for their work, and are ineligible for some~~
22 ~~awards and scholarships because they did not fulfill current~~
23 ~~requirements for an associate degree.~~

24 ~~(d) Today, one in every four jobs requires an associate degree~~
25 ~~or higher. In the near future, one in every three jobs will require~~
26 ~~an associate degree or higher.~~

27 ~~(e) The community college system allows the state to address~~
28 ~~the serious shortage of educated workers.~~

29 ~~(f) To meet workforce demands in a cost-effective way,~~
30 ~~incentivizing students to earn an associate degree while preparing~~
31 ~~for transfer to a four-year college or university, and recognizing~~
32 ~~that they have completed a transfer preparation course pattern,~~
33 ~~provides students encouragement and support to complete their~~
34 ~~overall educational pursuits.~~

35 ~~SEC. 2. Article 3 (commencing with Section 66745) is added~~
36 ~~to Chapter 9.2 of Part 40 of Division 5 of Title 3 of the Education~~
37 ~~Code, to read:~~

Article 3. Associate Degree and Recognition of Student Transfer
Preparation

~~66745. (a) This article shall be known, and may be cited, as the Community College Associate Degree and Recognition of Student Transfer Preparation Act.~~

~~(b) It is the intent of the Legislature that, whenever possible, a community college shall consider the requirements for transfer as it develops associate degree requirements and encourages students to take courses that simultaneously meet both of the requirements of Section 66746.~~

~~66746. A community college may grant an associate degree, in the student's field of study, on which is designated that it is "for transfer," to a student who meets both of the following requirements:~~

~~(a) Completes a minimum of 60 transferable semester units or 90 quarter units, 18 semester units or 27 quarter units of which shall comprise coursework in a major or an area of emphasis, as determined by the college.~~

~~(b) Meets the minimum requirements for transfer in an approved transfer core curriculum program, approved transfer agreement program, or dual admission program, implemented pursuant to Chapter 9.2 (commencing with Section 66720) of Part 40 of Title 3 or meets the requirements of an alternative path to transfer program, including, but not limited to, the Intersegmental General Education Transfer Curriculum or the California State University General Education Breadth Requirements.~~

~~66747. If a community college provides a degree with the "for transfer" designation as provided for in Section 66746, the college shall not impose any requirements in addition to the requirements of Section 66746, including any local college or district requirements.~~

~~66748. (a) A degree granted pursuant to this article shall reflect the completion of lower division general education requirements.~~

~~(b) The granting of a degree pursuant to this article does not guarantee admission to any institution.~~